Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of the Commission's Rules	)	MB Docket No. 10-71
Related to Retransmission Consent	)	

REPLY COMMENTS OF THE NEW JERSEY DIVISION OF RATE COUNSEL

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June 27, 2011

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EXECUTIVE SUMMARY

In the wake of increasing market concentration, the New Jersey Division of Rate Counsel is concerned that diversity, competition, and affordable rates for programming are more at risk than ever. As broadcasters demand higher fees from cable companies to carry programs, coupled with the threat of withdrawal of such channels, consumers are affected and ultimately must pay the higher fees through increased rates. Without transparency as to the fees being requested, the Federal Communications Commission ("FCC" or "Commission") and consumers cannot determine whether the fees are fair, just and reasonable. Furthermore, when broadcasters and multi-channel video program distributors ("MVPDs") fail to reach timely agreements, this market failure disrupts consumers' programming. Even with the commitments that the Commission incorporated into its order approving the Comcast/NBCU merger, Comcast has yet more market power to bundle less popular programming with must-have marquee programming. This trend is alarming.

Strong industry-wide regulatory measures are essential and should further the principles of transparency, non-discrimination in pricing, and lack of tying requirements. Any changes to the FCC's content retransmission rules should further the goal of à la carte availability, be based on full disclosure of retransmission fees, and require adequate consumer notification of any pending industry standstills.

Rather than being pawns held hostage by industry disputes, consumers should be empowered with complete information and provided with maximum choice over the types of programming that they seek to obtain.

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REPLY COMMENTS OF
THE NEW JERSEY DIVISION OF RATE COUNSEL

I. INTRODUCTION

The New Jersey Division of Rate Counsel ("Rate Counsel"), an agency representing New Jersey consumers,[1] replies to comments submitted in response to the Notice of Proposed Rulemaking ("NPRM") issued by the Federal Communications Commission ("FCC" or "Commission").[2] Rate Counsel's interest in this proceeding is in achieving regulatory improvements to the presently skewed retransmission consent markets that now exist so that consumers have access to diverse, affordable, uninterrupted, and competitive programming.

1/ Rate Counsel is an independent New Jersey State agency that represents and protects the interests of all utility consumers, including residential, business, commercial, and industrial entities. The Rate Counsel, formerly known as the New Jersey Ratepayer Advocate, is in, but not of, the Department of Treasury *N.J.S.A.* § 52:27EE-46, *et seq.*

2/ Amendment of the Commission's Rules Related to Retransmission Consent, Notice of Proposed Rulemaking. 26 FCC Rcd. 2718 (2011) ("NPRM"). Rate Counsel did not submit initial comments.

II. ISSUES

The market has evolved substantially during the past twenty years, and consumers bear the brunt of market imperfections.

The programming market that now exists differs substantially from that which existed twenty years ago when cable operators provided broadcasters' "only major non-over-the-air outlet for their programming" and therefore the parties "were equally harmed in the absence of an agreement."[3] Because, in today's environment, customers can migrate to another multichannel video programming distributor ("MVPD"), the broadcaster is no longer equally harmed by the absence of an agreement, which has led to the creation of monopoly markets.[4] Furthermore, networks exert market power over independent affiliates.[5]

In 2010, Rate Counsel expressed grave concerns about the impact of the purchase by Comcast Corporation ("Comcast") of NBC Universal Inc. ("NBCU") on competition in relevant markets, and the potentially dire implications of the transaction for consumers. Among the various concerns that Rate Counsel raised were concerns about the impact of the merger on retransmission. Regarding the existing program-carriage regime, Rate Counsel stated, among other things:

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[3] / Cablevision Systems Corporation ("Cablevision"), at 6.

[4] / *See* CenturyLink, at 1, referring to "cable companies' monopolies over video distribution" and *id.*, at 2, referring to "exorbitant fees and comply[ing] with onerous conditions in order to acquire key consumer-desired programming." *See also id.*, at 2-3 discussing broadcasters' market power relative to new entrants such as CenturyLink.

[5] / DISH Network L.L.C. ("DISH"), at 17. *See also, id.*, at 1, stating: "The retransmission consent process is broken. When millions of consumers lose an important service they already purchased, when the competitive pay-TV marketplace is undermined in the name of preserving a shrinking industry's legacy monopoly power, and when rural households are singled out for particularly harsh treatment, something has gone terribly wrong."

> The current program-carriage regime should be overhauled. Independent programmers' material should continue to be carried during the pendency of program-carriage complaint processes if it is already being carried. Baseball-style arbitration should take the place of the current complaint process. Comcast demands for equity in independent channels should be generally outlawed. Comcast should not be allowed to condition carriage in any way on extra-carriage agreements, including but not limited to any agreement not to post content online.[6]

Accordingly, Rate Counsel shares concerns that Commissioner Copps raised in the context of the Comcast-NBCU merger, but which apply more generally to the retransmission market:

> While the item before the Commission improves measurably on the program access, program carriage and online video provisions originally offered by the applicants, I believe loopholes remain that will allow Comcast-NBCU to unduly pressure both distributors, especially small cable companies, and content producers who sit across the table from the newly-consolidated company during high-stakes business negotiations for programming and carriage. Even when negotiations are successful between the companies, consumers can still expect to see high prices get passed along to them, as Comcast-NBCU remains free to bundle less popular programming with must-have marquee programming. Given the market power that Comcast-NBCU will have at the close of this deal over both programming content and the means of distribution, consumers should be rightfully worried.[7]

At issue is the balance of power (or lack thereof) between broadcasters and MVPDs. DISH explains that "[u]nder the carriage agreements between DISH and broadcasters, it is the broadcaster who grants the retransmission consent, and therefore has the right to refuse a

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6 / In the Matter of Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. For Consent to Assign Licenses and Transfer Control of Licensees, MB Docket No. 10-56, Rate Counsel *ex parte*, December 13, 2010, at 17.

7 / In the Matter of Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. For Consent to Assign Licenses and Transfer Control of Licensees, MB Docket No. 10-56, Memorandum Opinion and Order, FCC 11-4, released January 20, 2011 ("Comcast/NBCU Order"), Dissenting Statement of Commissioner Michael J. Copps, at 275.

contract extension or interim carnage during a renewal negotiation."[8] DISH further asserts that "[c]onsumers are the innocent bystanders harmed by broadcasters' bullying tactics."[9] Clearly consumers are caught in the middle of carriage disputes between broadcasters and MVPDs, and have little recourse. Rules need to be modified so that consumers no longer bear the brunt of market imperfections (*e.g.*, program black-outs, higher fees, loss of local programming, etc.).

Rate Counsel is not persuaded by broadcasters that assert that the existing retransmission consent regulatory regime largely works.[10] Rate Counsel acknowledges that owners of broadcast stations and networks rely on "a second stream of revenue to supplement cyclical advertising," which, in turn, assists in the development of "free, over-the-air television,"[11] but Rate Counsel is not aware of any evidence to suggest that this "second stream" is based on fair, just, and reasonable fees.

Fees for retransmission consent should not differ within the same markets, and retransmission fees should be transparent. As these reply comments discuss, Rate Counsel supports the principles of "non-discriminatory pricing, transparency in pricing, and no tying."[12]

Fox questions not only the necessity but also the scope of the Commission's legal authority to implement substantial changes to the retransmission consent rules.[13] Rate Counsel believes that the Commission is well aware of the extent of its legal authority and that the Commission will implement modifications to its own rules that are consistent with that authority.

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8 / DISH, at 5.

9 / *Id.*, at 2.

10 / *See, e.g.*, Fox Entertainment Group, Inc. and Fox Television Stations, Inc. ("Fox"), at 2.

11 / Fox, at 2.

12 / Cablevision, at 9; *see also*, CenturyLink, at 2.

13 / Fox, at 3; 4-8.

Transparency in rates.

The rates that MVPDs pay should be disclosed by all broadcast stations.[14] Information is key to well-functioning markets. Furthermore, transparent rates also assist the Commission in "understand[ing] the costs associated with retransmission consent carriage."[15]

Prohibition on tying.

Rate Counsel supports Cablevision's recommendation that "[b]roadcasters and their affiliated entities would be banned from tying retransmission consent to carriage of affiliated programming services or an MVPD's agreement to enter into other ancillary deals, such as sponsorship or advertising deals, carriage of multicast chanels or carriage of VOD [video on demand] content."[16] Rate Counsel is hopeful that such a ban would promote programming diversity because it would free up cash and channel flexibility for MVPDs.[17] By contrast, bundled deals ultimately limit consumer choice and may deprive consumers of local programming.[18]

Prohibition on price discrimination.

Price discrimination can cause some consumers to pay higher rates (as a result of higher transmission consent fees), and can cause market inefficiencies by requiring MVPDs to allocate resources (*e.g.*, time and money) to the process of negotiating retransmission consent

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14 / Cablevision, at 11.

15 / *Id.*, at 19.

16 / *Id.*, at 11.

17 / *Id.*, at 15-16.

18 / *Id.*, at 16.

negotiations.[19] However, although Rate Counsel concurs that these additional costs may get passed on to consumers (suggesting that a ban on price discrimination by broadcasters theoretically would benefit consumers), Rate Counsel is less sanguine that if, for example, prices are non-discriminatory, cable companies will pass on savings to consumers because as a separate but important matter, cable markets are not competitive.[20] With this important concern in mind, Rate Counsel nonetheless supports the principle of non-discriminatory prices because, if achieved, it would minimize transaction costs for all MVPDs, and possibly minimize the possibility of programming blackouts. As a separate, but important matter, Rate Counsel urges the Commission to address market imperfections in cable markets so that cable prices actually reflect any reductions in content retransmission costs that result from the FCC's improvements to its content retransmission rules.

Better data yields more efficient markets and improved regulatory oversight.

The FCC should obtain comprehensive data so that it can develop an informed policy on content retransmission matters, including, for example, data on broadcasters and the fees they earn for transmission. Programming is a critical input,[21] which means that the FCC needs to put a regulatory regime in place that recognizes retransmission as such. Among the first steps in improving content retransmission markets should be to require full disclosure of all contracts for retransmission between broadcasters and cable companies with such information available to the public. Depending on the market's evolution (and in light of increasing market concentration), it

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19 / Cablevision, at 11.

20 / *See, e.g., id.,* at 13, discussing distributors' "incentive to pass through any cost savings they realize to consumers."

21 / DISH, at 2.

is conceivable that the FCC would need to establish rate regulation or cap rates for retransmission charges.

Consumer choice should be paramount, and retransmission policy should reinforce the ability and right of consumers to select programming à la carte. Tying, for example, inhibits opportunities for à la carte programming. Strong, enforceable retransmission rules are essential so that consumers have choice in the programming they wish to purchase and so that they are not held hostage to industry disputes. Retransmission consent negotiations should not be a vehicle for anticompetitive conduct.[22] Mechanisms for timely and fair resolution of complaints are essential. At stake in this proceeding are the paramount goals of diversity, localism, and competition.

Consumers should not be held hostage to retransmission disputes.

The current system clearly is not working because consumers bear an unfair share of the cost and burden of failed industry negotiations. As DISH explains:

> Millions of consumers in every region of the United States who pay their bills on time and expect access to local broadcast stations have been held hostage and had their service interrupted by broadcasters withholding retransmission consent in order to gain an unfair advantage in retransmission consent negotiations. In the stand-off between broadcasters and Multichannel Video Programming Distributors (MVPDs"), only one party holds the ultimate right to take down programming: the local broadcaster. Broadcasters wield the power to keep that programming available, or take it down, during a retransmission consent negotiation.[23]

DISH also raises a legitimate concern about the insufficiency of the option of over-the-air reception as a substitute during content retransmission disputes:

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[22] / *See, e.g., id.*, at 19-20.

[23] / *Id.*, at 1-2.

> Millions of consumers with analog receivers, relying on the Obama Administration's assurances, did not avail themselves of the NTIA coupon program subsidizing the purchase of an analog-to-digital converter box. That coupon program has ended, and many consumers may not be set up for digital TV reception. It is therefore disingenuous for broadcasters to suggest that over-the-air reception always prevents consumers from experiencing service disruptions.[24]

Rural consumers may be particularly susceptible to program take-downs.

Rural consumers typically possess few alternatives when programming black-outs occur. As explained by DISH:

> DBS penetration is highest in rural areas where broadcasters provide inadequate signal coverage and cable operators and telephone companies do not provide MVPD service. Moreover, DISH has positioned itself as the low-cost alternative to DIRECTV, such that price-sensitive consumers generally choose DISH over DIRECTV. Thus, when a broadcaster takes down its signal from DISH, price-sensitive consumers in rural America generally are left without important emergency information, news, weather, sports, and political discourse. This is patently unfair to rural households, particularly given that broadcasters attempt to extract drastic rate increases from the very DBS providers they also depend upon to extend the reach of station signals to rural consumers not reached by the over-the-air signal.[25]

Therefore, measures to prevent broadcasters from taking down their signals, pending the resolution of content retransmission disputes, are essential to protect rural customers.

Network non-duplication and syndicated exclusivity rules.

Rate Counsel support recommendations that the Commission eliminate the network non-duplication and syndicated exclusivity rules.[26] As explained by Cablevision, the exclusivity

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[24] / *Id.*, at 11.

[25] / *Id.*, at 14.

[26] / *See e.g.*, CenturyLink, at 4, 9-10; Cablevision, at 23-26, citing, among other things, 47.C.F.R. §§ 76.92-94; 47.C.F.R. §§ 76.101-110.

rules tilt the negotiating power unfairly to broadcast networks and stations, and their repeal would create an additional incentive for broadcasters to devote more of their budgets to their own local programming efforts (because as much would not be paid toward retransmission consent fees for the national network) and also would improve good faith negotiations.[27]

Changes to the Subscriber Notice Requirements.

Non-broadcasters oppose the proposed requirement that MVPDs give notice to subscribers of potential interruptions in service because it could unnecessarily alarm consumers, possibly causing them to "drop their preferred MVPD" and possibly cause consumers to question their MVPDs, creating additional pressure on MVPDs to yield to unreasonable retransmission consent fees.[28] By contrast, Fox supports requirements for advance notice of retransmission consent disputes so that consumers can prepare for program disruptions.[29] Rate Counsel supports such notification – consumers should be amply informed about the implications of pending industry disputes for their access to programming. Indeed, the New Jersey Board of Public Utilities requires such notification, as Exhibit A to these comments show.

Non-binding arbitration remedy and network affiliate bargaining.

Rate Counsel is not persuaded by Fox's assertion that a modification to the FCC's rules that would add to the list of good faith violations any party's refusal to agree to non-binding mediation when the parties reach an impasse within 30 days of the expiration of the retransmission consent agreements "would conflict with broadcast stations' and networks'

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27 / Cablevision, at 23-26.

28 / *Id.*, at 27; *see, also, id.*, at 26-28.

29 / Fox, at 8-11.

statutory and constitutional rights."[30] The FCC has previously addressed arbitration. Indeed the commitments associated with the FCC's approval of the Comcast/NBCU merger include detailed provisions regarding arbitration mechanisms for carriage agreements.[31] Clearly the Comcast/NBCU merger raised particularly egregious problems regarding Comcast's post-merger market power over programming,[32] but some elements of the FCC's conditions likely should be applicable industry-wide.

Rate Counsels also supports the FCC's proposal to modify the reciprocal good faith bargaining rules to prohibit a broadcast station from providing its network partner with a retransmission consent approval right.

III. CONCLUSION

Rate Counsel urges the Commission to strengthen its retransmission rules. Transparency, a prohibition on tying, and non-discriminatory rates are essential. Rate Counsel urges the Commission to monitor content retransmission agreements, track the payments that are made, and collect data. Price information/contract information about retransmission fees should be available to MVPDs and the public.

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30 / *Id.*, at 12. *See*, generally, *id.*, at 12-21.

31 / *Comcast/NBCU Order*, Appendix A, Section VII, at 127-133.

32 / *See Comcast/NBCU Order*, at paras. 163-178, for a discussion of issues concerning network affiliate relations and retransmission consent.

Respectfully submitted,

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June 27, 2011

EXHIBIT F

Agenda Date: 8/04/10
Agenda Item: 3B

STATE OF NEW JERSEY

Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

CABLE TELEVISION

IN THE MATTER OF CABLEVISION – SCRIPPS NETWORK IMPASSE RESULTING IN THE LOSS OF HGTV AND THE FOOD NETWORK CHANNELS	))))	ORDER ACCEPTING OFFER OF SETTLEMENT DOCKET NO. CO10010017

Paul Fader, Esq., Florio, Perrucci, Steinhardt & Fader, L.L.C., Rochelle Park, New Jersey, for CSC TKR, LLC

BY THE BOARD:

CSC TKR, LLC itself and through its subsidiaries[1], (referred to collectively as "Cablevision"), operates certain cable television systems in the State of New Jersey, and such cable systems provide cable television services to some 900,000 subscribers in 176 municipalities in Bergen, Essex, Hudson, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren counties.

On January 27, 2010, the Board issued two companion orders regarding Cablevision's alleged failure to provide advance notice of the elimination of the HGTV and Food Network channels. These Orders memorialized the rulings made during the January 20, 2010 agenda meeting. The Board's Order Denying Waiver Request rejected Cablevision's request for a waiver, as within time, of the advance notice requirements under N.J.A.C. 14:18-3.17. The Board also issued an Order to Show Cause, directing Cablevision to file an answer with the Board within thirty (30) days of the Order, or by February 26, 2010. On February 17, 2010, the Board issued an order granting an extension of time by which Cablevision could file a motion of reconsideration of the Board's Order Denying Waiver Request.

On February 26, 2010, Cablevision filed an Answer and Motion for Reconsideration in response to the Board's Order to Show Cause and Denial of Cablevision's Waiver Request. Cablevision relied on its Answer to support its Motion for Reconsideration. A Certification of Thomas

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[1] CSC TKR, LLC; Cablevision of Monmouth, LLC; Cablevision of Hudson County, LLC; Cablevision of New Jersey, LLC; Cablevision of Newark; Cablevision of Warwick, LLC; Cablevision of Paterson, LLC; Cablevision of Rockland/Ramapo, LLC and Cablevision of Oakland, LLC.

Montemagno, a Senior Vice President for Programming Acquisition, also accompanied the submission.

On April 5, 2010, the Board issued an Order denying Cablevision's Motion and found Cablevision's arguments that it did not violate the Board's rules to be without merit. Accordingly, the Board directed Cablevision to submit comments within ten (10) days on why it should not be assessed fines of up to $60,000.

On April 15, 2010, Cablevision submitted comments that mirrored its earlier arguments, suggesting that it had acted in good faith and that no penalty should be imposed. In the alternative, Cablevision suggested that any penalty imposed should be de minimus given the circumstances. These arguments had already been considered by the Board and rejected in its Order of April 5, 2010.

Cablevision, now seeks to resolve this matter without further delay and to avoid the costs of potential litigation, and therefore, on July 21, 2010, Cablevision submitted an Offer of Settlement including a monetary payment in the amount of $30,000.00.

The Board has reviewed the matter and HEREBY FINDS that the Offer represents a reasonable settlement of the alleged violations. Therefore, the Board HEREBY ACCEPTS the Offer of Settlement proffered by Cablevision subject to the following conditions:

1 Cablevision shall tender $30,000.00, payable to Treasurer, State of New Jersey within fifteen (15) days of receipt of the Board's Order accepting the Offer of Settlement.

2 Going forward, Cablevision shall:

   a file with the Office written notice of an alteration in channel allocation at least thirty (30) days prior to the effective date as required by N.J.A.C. 14:18-3.17 (a);

   b. notify its customers and affected municipalities of an alteration in channel allocation thirty (30) days prior to the effective date as required by N.J.A.C. 14:18-3.17 (b); and

   c. comply with all terms and conditions of Orders and directives issued by this Board and the Director as required by N.J.S.A. 45:5A-9.

The Office will monitor Cablevision or its successor's future notice and filing requirements and procedures as set forth in the State Cable Television Act and the New Jersey Administrative Code.

The Board's acceptance of the Offer of Settlement is for purposes of this proceeding only, addresses only those specific allegations and timeframes in the Offer of Settlement, and shall not be construed as limiting the Board's authority in any other matter affecting Cablevision or a successor company or operator.

For purposes of assessing penalties for future offenses by Cablevision, their parents, affiliates, subsidiaries and successors that may now or in the future operate the cable television systems that are the subject of this Offer of Settlement, such future offenses shall be considered second, third or subsequent offenses, in accordance with N.J.S.A. 48:5A-51(b).

DATED: 8\24\10

BOARD OF PUBLIC UTILITIES
BY:

LEE A. SOLOMON
PRESIDENT

JOSEPH L. FIORDALISO
COMMISSIONER

NICHOLAS ASSELTA
COMMISSIONER

DISSENT OF COMMISSIONERS JEANNE M. FOX AND ELIZABETH RANDALL

We dissent from the Board's decision to accept the Offer of Settlement from CSC TKR, LLC, itself, and through its subsidiaries (referred to here as "Cablevision"). The majority of the Board accepted a $30,000 offer of settlement from Cablevision in satisfaction of the Board's assertion that Cablevision failed to provide regulatory-required advanced notice to the Board, subscribers, and affected municipalities of the elimination of the Food Network and HGTV channels, as required under N.J.A.C. 14:18-3.17.

As the Board is aware, any number of violations of Board rules and Orders has been asserted against Cablevision. In light of this history, and based upon the Board's finding of an apparent violation in the underlying Order to Show Cause, a monetary fine is appropriate. The amount of that fine, however, should be significantly higher than the $30,000 offer of settlement provided here, based upon the nature of the case, the history with the party, and our concern that this is simply a "cost of doing business" to a company as large as Cablevision. We know that Cablevision is familiar with the Board's rule that it must either provide 30 days' notice before eliminating channels from their lineup or request a waiver of this notification rule, because Cablevision has been cited for allegedly violating this rule before. In fact, the Board has issued Cablevision no less than seven warnings for alleged violations regarding channel change notices to the Office of Cable Television (OCTV), as well as two warnings for alleged violations regarding channel change notices to customers and municipalities. Despite this, Cablevision is once again before the Board. It appears to us that Cablevision's bottom line is that its $30,000 Offer of Settlement is just the cost of doing business, as that amount still puts it significantly ahead of where it would have been if it had complied with the regulation and sent out the appropriate notices.

Once again, Cablevision neither gave the BPU's OCTV, customers, and municipalities prior notice before going off the air with these two popular stations, nor did it seek a waiver. Over 900,000 customers in 176 municipalities from Sussex to Monmouth County were affected and customers did not receive any rebate from Cablevision. Accordingly, we believe the Board should reject the Offer of Settlement and instead assess the maximum original fine of $60,000 against the company. While even this fine may not be an appropriate reflection of the value to Cablevision of its alleged failure, it would nevertheless send a clearer message to Cablevision that the Board's regulations and Orders must be complied with and should not simply be treated as a minor impediment or a nuisance.

Jeanne M. Fox
JEANNE M. FOX
COMMISSIONER

Elizabeth Randall
ELIZABETH RANDALL
COMMISSIONER

ATTEST: Kristi Izzo
KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities

Kristi Izzo

I/M/O CABLEVISION-SCRIPPS NETWORK IMPASSE RESULTING IN THE LOSS OF HGTV AND FOOD NETWORK CHANNELS

OFFER OF SETTLEMENT

DOCKET NO. CO10010017

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10 JUL 21 PM 3:22
BOARD OF PUBLIC UTILITIES
NEWARK, N.J.

IN THE MATTER OF CABLEVISION-SCRIPPS NETWORK IMPASSE RESULTING IN THE LOSS OF HGTV AND THE FOOD NETWORK CHANNELS	**OFFER OF SETTLEMENT** **DOCKET NO.: CO10010017**

WHEREAS, CSC TKR, LLC, itself and through its subsidiaries, (referred to collectively as "Cablevision" or the "Company"), operates certain cable television systems (the "Cable Systems") as that term is defined in N.J.S.A. 48:5a-3(D), in the State of New Jersey, pursuant to applicable State and Federal law, and such cable systems provide cable television services to almost 1,000,000 subscribers in the State of New Jersey; and

WHEREAS, New Jersey cable television companies are subject to the jurisdiction of the Board of Public Utilities (the "Board"), Office of Cable Television (the "Office" or "OCTV"), pursuant to the provisions of the New Jersey Cable Act, N.J.S.A. 48:5A-1 et seq. (the "Act") and the New Jersey Administrative Code, N.J.A.C. 14:18-1.1 et seq. (the "Regulations); and

WHEREAS, the New Jersey cable television companies are required to comply with the Act, the Regulations and duly promulgated orders and directives of the Board and Director of the Office "Board Orders"); and

WHEREAS, without prior notice to Cablevision, and contrary to industry practice and its own prior course of dealing with

Cablevision, Scripps Networks, Inc., the parent company of The Food Network "Food" and Home and Garden Television "HGTV" at 12:01 am on the morning of January 1, 2010, unexpectedly removed the programming from Cablevision customers as a result of a carriage dispute, this dispute having affected Cablevision's customers in New Jersey;

WHEREAS, Cablevision provided electronic notice to subscribers on January 1, 2010 informal notice to OCTV on January 1, 2010 and formal written notice on January 5, 2010 when the Company filed a letter with the Board and requested a waiver, of the 30-day period for the filing of advance notice of an alteration in channel allocation, as required under N.J.A.C. 14:18-3.17 (a and (b) and also served to notify the Office and the affected municipalities of the elimination of HGTV and Food from Cablevision's channel line up; and

WHEREAS, on January 27, 2010, the Board denied the waiver request and issued an Order to Show Cause, directing Cablevision to file an Answer within 30 days of the Order why the Board should not find that Cablevision failed to satisfy the requirements of N.J.A.C. 14:18-3.17 by failing to provide timely notice of channel deletions for HGTV and Food at least 30 days prior to the effective date of the deletions; and

WHEREAS, on February 26, 2010, Cablevision filed an Answer and Motion for Reconsideration in response to the Board's Order to Show Cause and denial of Cablevision's Waiver Request; and

WHEREAS, by Order dated April 5, 2010, the Board found that Cablevision failed to provide advance notice to the Board, subscribers, and affected municipalities of the elimination of the Food and the HGTV channels as required under N.J.A.C. 14:18-3.17 and found that the maximum fine committed to be assessed pursuant to N.J.S.A. 48:5A-51 is $60,000.00 and directed Cablevision to submit comments on why it should not be assessed fines of up to $60,000.00;

NOW THEREFORE, the Company submits this **OFFER OF SETTLEMENT** as follows

1. The Company offers to the Board the sum of $30,000.00 payable to the Treasurer, State of New Jersey, in full settlement of any costs which may be imposed or assessed, in this matter. Such payment is conditioned upon the Board's accepting the terms of this **OFFER OF SETTLEMENT**.

2. In consideration of the terms set forth in this **OFFER OF SETTLEMENT** regarding the temporary removal of the HGTV and Food channels from Cablevision's channel lineup on January 1, 2010 and upon approval by the Board of this **OFFER OF SETTLEMENT** and fulfillment of the terms set forth hereinabove, the Board and OCTV release Cablevision from any and all liability with

respect to the violations described in this **OFFER OF SETTLEMENT**

3. The **OFFER OF SETTLEMENT** made herein is neither an admission of guilt or responsibility for, nor an admission of a violation of, any provision of the Act or Regulations, rather is made strictly to resolve any outstanding issues with the Board and Office in an amicable and expeditious manner. In the event of any future repeated violation(s) of the Act and the Regulations which are the subject of this **OFFER OF SETTLEMENT**, Cablevision agrees that any such violation(s) shall considered as second, third or subsequent violations, appropriate, pursuant to the provision of N.J.S.A. 48:5A-51(b), for the purpose of determining the amount of any applicable penalty. Cablevision further agrees to continue to comply with the Act, the Regulations, and Board Orders including the notice provisions of N.J.A.C. 14:18-3.17

DATED: 7/20/10

CABLEVISION SYSTEMS CORPORATION

By: ______________________

Paul T. Fader, Esq.
Florio Perrucci Steinhardt & Fader, LLC
Attorneys for Offeror